

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**3:12cv545**

**[3:03cr13]**

<b>ROLANDER YARBAROU GRICE, JR.,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>Vs.</b>	)	<b>ORDER</b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	
_____	)	

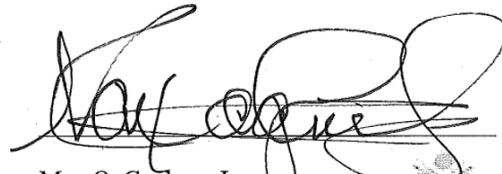
**UPON MOTION OF PETITIONER** Rolander Yarbarou Grice, Jr., (Doc. No. 1), and without opposition from the government, Petitioner's conviction is hereby **VACATED**. Because the government has waived the one-year statute of limitations on § 2255 motions, the Fourth Circuit's decision in United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc), retroactively applies to Petitioner. (Doc. No. 3 at 4). Furthermore, the government agrees that Petitioner is actually innocent of the § 922(g)(1) conviction he has challenged under Simmons, and the government therefore has consented to the motion to vacate this Court's April 5, 2005, judgment. (Id. at 1).

**THEREFORE**, Petitioner's motion to vacate is **GRANTED**. Because Petitioner's conviction is vacated, his sentence is also **VACATED**, and he is **ORDERED** released from the custody of the U.S. Bureau of Prisons and/or the U.S. Marshals Service. Petitioner shall not be released until ten (10) days after entry of this Order, in order to allow the Bureau of Prisons to complete release planning and to perform its pre-release public safety obligations. In the event that Petitioner has already been released under terms of pretrial supervision, such supervised release is **TERMINATED** and Petitioner is released from any accompanying terms or conditions.

**IT IS FURTHER ORDERED** that the government's motion for leave to file out of time (Doc. No. 4) is **GRANTED**.

The Clerk of Court will certify copies of this Order to the United States Bureau of Prisons and the U.S. Marshals Service.

Signed: September 13, 2012



Max O. Cogburn Jr.  
United States District Judge